

THE COURT OF THE ADDITIONAL SESSIONS JUDGE, 1ST COURT,
BERHAMPORE

Order No. 10

03.07.2026

All 6 accused persons on c.b are present by filing hazira.

The discharge application has been filed by accused persons namely
1) Gouri Dey; 2) Goutami Dey and 3) Tanmoy Dey seeking their discharge from
this case on the following grounds:

(a) Tanmoy Dey is a school teacher and his wife Gouri Dey is a housewife and
Goutami Dey is a student and they are all permanent resident of vill- Mohula
under P.S – Beldanga under District- Murshidabad;

(b) Gouri Dey is the married elder sister of the principal accused Santanu
Pramanik and she got married about 30 years ago;

(c) No prima facie case is made out against these accused persons for offence u/s
498A/313/325 I.P.C;

(d) There is no sufficient ground or material to frame charge against them.`

The Ld. Advocate for these accused persons submitted that the accused Goutami
was merely 16 years of age when this case was lodged. He has referred to a
decision of the Hon'ble Supreme Court in ***Ghanshyam Soni -vs- State (Govt of
NCT of Delhi)*** wherein the Hon'ble Court has been pleased to hold that where
the accusations were merely cursory and generic and the evidence on record was
inconsistent with the accusations, discharge of the accused was justified.

Ld. P.P raises objection against the prayer for discharge and submitted that there
is sufficient material against these accused persons.

Considered.

Section 227 of the Cr.P.C reads as follows:

"If, upon consideration of the record of the case and the documents submitted
therewith, and after hearing the submissions of the accused and the prosecution
in this behalf, the judge considers that there is not sufficient ground for
proceeding against the accused, he shall discharge the accused and record his
reasons for so doing." [Emphasis mine]

The object of Section 227 Cr.P.C is to relieve the accused person from facing the entire trial when there is no material to proceed against him.

The written complaint is a lengthy one with omnibus allegation against all the accused persons. The above-named accused persons are the elder married sister-in-law, her husband and daughter. The statements of the witnesses as recorded under Section 161 CrPC do not mention the specific role of each of these accused persons. The statements do not mention any specific date or incident mentioning the involvement of these accused persons. I find it intriguing that the witnesses have named the accused persons in the same order mentioned in the F.I.R. A perusal of the FIR and the CD indicates that statements of a general nature have been made therein as against the present three accused persons. Needless to say, the statement of the witnesses recorded u/s 161 Cr.P.C are identical.

It has been held in various decisions of Hon'ble Courts that a judge is not a mere post office to frame the charge at the behest of the prosecution but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In deciding a discharge application, I shall weigh and sift the evidence, probability and materials on record and CD for the limited purpose of finding whether there is sufficient material to proceed.. Under Section 227 Cr.P.C., the trial court is only required to consider whether there are sufficient grounds to proceed against the accused or not.

In the present case, the F.I.R has been filed by the wife against her husband(Santanu), father-in-law(Gopal), mother-in-law(Kripamani), married sister-in-law (Gouri), husband of sister-in-law(Tanmoy) and the daughter of sister-in-law (Gautami). The names of the accused persons have been entered in a list as a footnote to the written complaint.

The accused Gautami was merely 18 years old when the alleged incident took place and 14 years old when the complainant got married to accused Santanu. Tanmoy Dey is the 'jamai' of the house and does not stay in the matrimonial house of the complainant. Though a married sister-in-law may, directly or indirectly, be involved in cruelty, the same does not hold true for the daughter and husband of Gouri Dey. The names of Tanmoy Dey and Goutami Dey have been roped in to misuse the penal provision.

There is a growing tendency to rope in all the relatives of husbands whether they reside in the matrimonial home with the woman or not. Various

Hon'ble High Courts have held that omnibus, sweeping and mechanical implication, bereft of concrete evidence, dilutes the very intent and sanctity with which the provision of Section 498A IPC was incorporated.

The inclusion of the names of Tanmoy Dey and Gautami Dey has been added in such mechanical manner.

Hence, it is

ORDERED

that the accused persons namely Tanmoy Dey and Goutami Dey are hereby discharged u/s 227 Cr.P.C. Accused Gouri Dey is not discharged.

To 24.09.202 for framing charge against the remaining 4 accused persons.

Typed by me

ASJ 1st Court, Berhampore, Murshidabad

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